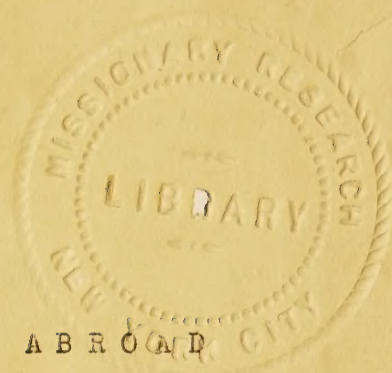


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# INDEMNITY FOR MISSION LOSSES ABROAD

An Historical Study for the Foreign Missions Conference

by

George T. Scott

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Foreign Missions Conference of North America

156 Fifth Avenue, New York, N. Y.

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STRICTLY CONFIDENTIAL

INDEMNITY FOR MISSION LOSSES ABROAD

AN HISTORICAL STUDY FOR THE FOREIGN MISSIONS CONFERENCE

FEBRUARY 1943

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## FOREWORD

The tremendous damage, injury and loss suffered today in many foreign mission lands compel the responsible administrative agencies to consider with the greatest care the complex problems of indemnification. To aid in such consideration the Foreign Missions Conference in December 1942 constituted a special committee to study the question and to report to the Boards. This Committee requested me to make this Historical Study. The inadequacies, faults and infelicitities are solely my own. The fact and opinion are from many sources, freely plagiarized with little credit and less documentation! Readers will recognize numerous pieces cut to fit the compact pattern. Very heavy draught is made on the notable assembly of "Source Material" by Dr. A. L. Warnshuis, issued to the Boards May 6, 1927; that and other FMC indemnity material in the files of each Board would repay review.

This Historical Study is intended to give background to indemnity issues for the Foreign Mission Boards of the United States only; the writer is uninformed regarding the procedure by the Government of Canada. This review of the past will be followed with Committee papers on the indemnity issues of today; to avoid undue duplication with them this Study is purposely curtailed in several places, especially "Section I. General".

February 20, 1943

George T. Scott

## I. GENERAL

A few parts of the indemnity skeleton are sketchily outlined here; they support the embodiment to be given to them later.

### A. DEFINITION

The moral and ethical principle that vitalizes the legal procedure of indemnities is well phrased in the succinct and much quoted axiom of Grotius: "Fault creates the obligation to make good the loss". This obligation is universally understood and is the basis of the international laws that control the rights of aliens. "To make good the loss" two methods are commonly employed, defined as follows:

Indemnity: "Compensation or remuneration for loss, damage or injury, - may involve acknowledgment of guilt."

Solatium: "Alleviation and compensation for suffering or loss, especially an additional allowance for injured feelings."

### B. KINDS OF LOSS, DAMAGE OR INJURY

#### 1. Property Damage or Loss:

- a. Corporate, belonging at least in part to an American organization, (or to a National Church if under special treaty provision, as formerly in China).
- b. Personal, belonging at least in part to an American citizen, (or to a National Christian, as formerly in China).



2. Bodily Injury or Death.

3. Evacuation Expense or Loss, including Rental Value while dispossessed.

C. VARIETIES OF PARTIES INVOLVED

Damage may be caused

BY 1) a neutral; 2) an enemy; 3) an ally; or 4) own government;

TO 1) a neutral; 2) an enemy; 3) an ally; or 4) a citizen or subject;

in territory of 1) a neutral; 2) an enemy; 3) an ally; or 4) own government.

The combination in a particular case affects the attitude toward (a claim for) indemnity; e.g. 1) damage in civil war to an American neutral as in Nanking 1927 versus damage by an enemy (Japan) to an American in Allied territory as in China or the Philippines in 1942; or 2) expropriation by a friendly government for purposes akin to those of the Mission versus expropriation by hostile or indifferent government for uses not considered desirable by the Board.

D. PURPOSE OF INDEMNITY

In general indemnity is to meet an obligation to correct a fault or wrong, and to prevent recurrence of injury. It falls into two main categories:

1. Compensation and Reparation for the actual damage or loss; reparation or replacement or rental value of a thing in use; (for the same use, not a new use?). In case of death or injury, only those actually suffering loss, e.g. dependents, may claim compensation.
2. Punishment and correction to establish justice, to reform the criminal and to prevent crime.

The compensatory and punitive elements are really separate, for compensation by itself is not presumed to be adequately reformatory or preventive.

E. MOTIVES FOR INDEMNITY CLAIMS AND PAYMENTS

1. Motives of Boards in making, or declining to make, claims for indemnity in the past will appear from time to time in this paper. The legal, ethical and practical issues in today's situation are developed briefly for Board consideration in a separate FMC statement which indicates some of the pros and contras of claiming indemnity.
2. Motives for payment by the nation at fault emerge in this paper and are shown more fully in the separate survey of the issues today. In a word they may be classified as:
  - a. Voluntary, - by the free will and desire of the responsible party without pressure from outside. Such payment may, or may not, be made in response to a report of loss by the injured party.



- b. Compulsory, - upon demand and under outside pressure of a diplomatic, economic, and/or military sort.

The "voluntary" method may be employed to avoid the "compulsory"; e.g. the Japanese "solatiums" offered to American Missions in China 1938-1941.

## II. INTERNATIONAL LAW AND U.S. GOVERNMENT IN RE INDEMNITY

Mission indemnities come under Public International Law. The following few intimations are drawn largely from a comprehensive publication of the Department of State in 1937 titled "Damages in International Law", Vol. III., available at Foreign Missions Library, 156 Fifth Avenue, New York.

### A. GOVERNMENTAL RESPONSIBILITY

1. A basic purpose and obligation of government are the safety and welfare of all law-abiding persons within its bounds and of its own citizens abroad, protecting its citizens and their property everywhere. The U.S. has rather steadfastly adhered to this principle and acted accordingly. Since governments are expected to maintain peace with justice and to punish lawbreakers and evil-doers, governments and not individuals are the responsible parties in international claims and payments of indemnity. It is ordinarily some act, connivance or failure of a foreign government causing damage or loss to an American citizen or corporation that is the basis of missionary indemnity. The government that exercises the collective authority and control is considered responsible for violations of law and order. - The stage of civilization in the offending country has been a considered factor in negotiations and settlement of indemnity.
2. Expropriation of the land of an alien by government under condemnation proceedings is accepted as right, compensation being expected prior to actual acquisition. Cities have expropriated mission premises for various uses; often payment was received only after firm demand. Some countries have "nationalized" foreign properties. Special reference is made later to extensive expropriation by Iran and to "nationalization", virtual confiscation?, by Mexico.
3. War and belligerency have made definitive differences in the scope of government responsibility for loss and damage caused to aliens, particularly to enemy aliens. Due to certain general or local circumstances, some war losses were not recovered while others were indemnified with large payments. War losses have been handled as a rule by International Claims' Commissions, with the State Department exercising scrupulous care in presenting claims and awarding payments.

### B. STATE HAS ABSOLUTE POWER IN INTERNATIONAL INDEMNITIES

1. Corollary with the responsibility of a State under law, a government is sovereign and absolute in international intervention and is in control of indemnities for its citizens injured in person or in property. A State or an Arbitral Tribunal may or may not regard a private waiver



of claim as a bar to international reclamation. Basic theory:- The great end of civil association, a government, is the safety of its citizens whom it is expected if not bound to protect. Also "whoever uses a citizen ill, indirectly offends the State, - and this warrants the operation of the State's protective machinery." - When St. Paul on several occasions claimed his rights as a Roman citizen, the agents of the State acted on his behalf.

2. The Edinburgh Missionary Conference in 1910 ("Principle and Findings", Vol. VII., Page 100) pronounced that the local government alone and completely possesses the right to regulate civil order and is therefore unqualifiedly responsible for consequences of breaches of order; the governments of domiciled aliens possess the right of interference on their behalf, dealing only with consequences (injuries) and not with regulative methods, except by amicable representation - they may negotiate, they do not dictate.
3. In the protection of a citizen, the government has full discretion, and its powers are plenary. The rights of citizens under treaties are matters of contract between governments and cannot be waived or altered by citizens. A citizen cannot divest himself of his rights nor can government escape its obligations. All classes of citizens are covered by the same U.S. laws, federal and local. The U.S. Department of State exercises full control over international claims; it may prosecute a claim in any form it desires without permission of the injured and without responsibility to any person for its acts. However, if a citizen waives his "right" to claim indemnity, his government may desist from pressing a claim (if case is not diplomatically important). Conversely, the government has pressed claims despite the specific opposite request of the injured.

#### C. GENERAL CONDITIONS UNDERLYING INDEMNITIES

1. In general "under International Law private rights and private property to whomsoever belonging are not affected by conquest, annexation, or cession of the territory in which they are situate." (Encyl. Brit.) -

In World War I. all belligerents adopted measures for the safe custody of private property. - The Versailles Treaty (Art. 438) exempted Mission property from the general liquidation of German property (to the Allies, Art. 297). German Mission property was held in trust for its original use by trustees of the same faith. The Allies agreed to safeguard the interests of the German Missions; German personnel were in many of the Missions by 1924. - The Convention of St. Germain, 1919, covering Colonial Africa, regards Christian Missions as partly instruments of civilization and not as solely religious.

2. A claim by an American citizen or corporation must be made under the civil laws of the State of domicile or of incorporation, or under International Law. The U. S. Government, being fully responsible with complete authority, handles the problems of (international) law, equity and procedure. - Each case is reviewed in the light of circumstances. There is no absolute and universal principle controlling all claims for indemnity, especially regarding loss of property. Damage may be caused by an individual, a mob, brigands, insurgents, war, or expropriation, with differing degrees of liability and under differing laws and situations.



3. Edwin H. Borchard, in "The Diplomatic Protection of Citizens Abroad", 1916, stated: "Private individuals are in no sense authorities of the state. For this reason their acts do not involve the international responsibility of the state unless the latter by some independent delinquency of its own may be charged with a violation of its international obligations. The first of these obligations in so far as it affects the present subject is to furnish legislative, administrative and judicial machinery which normally would protect the alien against injuries to his person or property by private individuals. (Grotius, II. ch. 21. Sec. 2.: Vattel, liv. II. Ch. Vi. Secs. 71-73, etc.) This does not mean that the governmental machinery of the state must be so efficient as to prevent all injury to aliens - for this would make of the state a guarantor of the security of aliens - but simply that its legislation, its police and its courts, whatever the form of government, must be so organized that a violent act by one private individual upon another is only a fortuitous event and that the judicial channels for legal recourse against the wrong-doer are freely open. A second and subsidiary duty, a default in which has often served to fasten responsibility upon the state, is the use of due diligence to prevent the injury, and in a criminal case the exertion of all reasonable efforts to bring the offenders to justice. - The obligation to indemnify arising out of a treaty guaranty of special protection, regardless of any delinquency of the authorities, is illustrated in the case of the Panama riot claims of 1856 against New Granada, which the latter country satisfied on account of having undertaken, by article 35 of the Treaty of 1846 with the United States, 'to preserve peace and good order along the transit route'. Wherever a government obligates itself to preserve order, as weak countries frequently do, claims for injuries arising out of mob violence are usually rigorously prosecuted. China, indeed, regardless of treaties, has in innumerable cases been held to a degree of responsibility amounting actually to a guaranty of the security of persons and property of aliens. Countries where governmental control is weak and civil disorders are not an abnormal condition are held only to a slightly narrower degree of responsibility."
4. Some losses due to general warfare have not been recoverable, e.g., if no international wrong was committed, or if aliens suffered solely in common with subjects of the offending nation.

On occasion the conditions have led nations to decline to press claims. Among the reasons were, - making a virtue of necessity as when the nation at fault could not pay, stabilizing the debtor government for better international relations and enlarged trade, seeking goodwill, contacts and influence, and avoiding any punitive exaction. Such enlightened self-interest was probably partly altruistic.

#### D. PROCEDURE IN REPORTING MISSION LOSSES AND IN CLAIMING INDEMNITY

1. A Report of loss has often been quite separate from a Claim of Indemnity. The U.S. Consul and the State Department have always desired a Report, irrespective of any Claim that the injured might wish to make either along with that Report or later. A detailed Report according to Government requirements has been advisable in all cases, has been necessary for a Claim, and has ordinarily preceded voluntary offers



of compensation. - The officials of the Department of State have been consistently judicious and constructive, and ready to cooperate in securing such indemnity as seemed to them right and advisable. They have passed upon both the legality and desirability of claims. - Sometimes Boards have used to advantage the services of an expert claims' attorney, especially for the final touches on the documents and for the actual presentation to the State Department.

2. Practice in the Past has varied as follows:

- a. The individual missionary or Mission presented a report of loss and made claim directly to the local government authority. The U.S. Government has "uniformly discouraged independent negotiations between individual sufferers and the district officers for the adjustment of alleged losses". The government cannot prevent an independent claim but will take no responsibility in connection with it and wants it reported to the State Department to prevent any duplication of claim by Government. (From John Hay, Secretary of State, 1901). - In 1918 an American Mission in inland China negotiated directly and accepted indemnity of \$83,000 mex. in "Treasury Bills" and many years later was still trying to cash them. - In 1938 the U.S. Government gave emergency assent to direct negotiation in "occupied" China with Japanese military authorities for settlement of war damage "on the spot"; a number of cases are reported later in this paper.
- b. A missionary or Mission presented a report and the related claim to the local U.S. Consul and he in turn to the local authority. This unusual process seemed to have support from Washington, presumably to prevent an isolated and perhaps unimportant case from becoming a matter of international diplomacy.
- c. A missionary or Mission presented report and claim through the local U.S. Consul to the home government in Washington. This has been widely practiced in many lands. Instances are mentioned later.
- d. The missionary or Mission reported a loss and expressed opinion regarding indemnity claim to the Home Board and the Board to the Home Government, the Mission also filing report with local Consul who reported it to Home Government. This has been the best and probably the most common practice. - Several times the Protestant Episcopal Board or Missions and at least once other Boards have supported or approved claims by their missionaries for personal property when the Board itself had no loss or made no claim.
- e. A U. S. Board presented an indemnity claim to a European colonial power, the British Government, for property destroyed by a barbarous people in a British possession.
- f. Missionaries, Missions, and Boards have occasionally desired not to report a loss and have frequently elected not to claim indemnity. Where Boards have renounced (claims to) indemnity, and have advised or encouraged their missionaries to do likewise, the Boards have ordinarily raised special funds in the U.S. to restore need-



ed buildings and to rehabilitate, at least in part, their missionaries. A notable example was Nanking losses 1927-28; no Board made any claim for indemnity; many Boards made (partial) reparations to their missionaries, some of whom made claims to government; a fuller record of the "Nanking Incident" is made below.

(Note: For Procedure today, see separate papers issued by FMC.)

### III. MISSIONARY ATTITUDE AND ACTION IN THE PAST 100 YEARS

1. Boards are deeply aware of the multitude of motivations and controls that enter into their decisions; nowhere are these more numerous and difficult of the necessary reconciliation than in the highly complex equation of international indemnities for mission losses. - Each Board has multi-form trusteeships with ecclesiastical, legal, religious, ethical, financial, administrative and personal responsibilities, both short-range and long-range; these have been conscientiously met as each Board believed right and wise. - Boards have accepted the authority of government and the political subjection of an individual to his State as taught in Scripture, (e.g. John 19:11; Romans 13:1-7; 1 Peter 2:13-17), and have sought righteousness and peace through law and order for the immediate and permanent welfare of all. They likewise have modified justice with warm, Christian mercy and sympathy and have not claimed compensation for loss if the innocent would be oppressed or the cause injured by methods of collection. - While recognizing the necessary political relationships, the Boards realize that their mission is essentially religious. - Consultation among the Boards and Missions has been common and helpful from the beginning, with commendable readiness on the whole to recognize the right of each to its own opinion and action however much these might differ from the norm.
2. In view of the above consideration and of many denominational variants it is natural that the opinion of Boards, of Missions and of missionaries regarding indemnities has never been uniform. A few Boards (e.g. the China Inland Mission) seem to have pursued throughout their history a rather constant practice of not claiming (or accepting?) indemnity. Some Boards have had a fairly consistent policy of opposing indemnity for life, of accepting compensation for property loss only if voluntarily offered, and/or of desiring no undue pressure on the local community for collection of indemnity, etc. Other Boards without announced policy have acted in each case as the circumstances justified; the acts causing damage vary widely from the obviously hostile and criminal to the purely fortuitous, politically legal, or militarily necessary. While the opinions of the Boards and Missions have not been uniform they have in general been gradually approximating a common viewpoint, doubtless from the growing body of similar experience with indemnities and from fuller, inter-Board discussion. A notable general trend was that, as experience widened, Board attitudes and actions became increasingly less legal and exacting and increasingly more expedient and gracious.



3. British Missionary Societies, advised by the Standing Committee of their Conference, seem to have had a rather uniform policy and practice, and on the whole to have been less willing to claim indemnity than have American Boards. The British have appeared more ready to recognize the extenuating circumstances of injury or damage, but to be firm against patent iniquity and injustice.
4. The Department of State has been not only prompt and effective in supporting the rights of Americans abroad but also considerate of the Christian missionary purpose and method. Although Boards cannot require their government to act or to abstain from action, yet their expressed opinion and desire has influenced government proceedings. An attempt at a fairly-balanced, historical summary of missionary opinion and action during the past century follows.

#### A. PRIOR TO 1900

1. Some claims: - a) In China. The foreign Treaties of 1842 and 1844, exacted under duress, gave way after frequent, anti-foreign disorders to the 1858 Treaties with the United States, Great Britain, France and Russia. Indemnities were demanded; 489,000 Taels were paid to U.S. claimants, including 57,000 Taels to Missions and missionaries. Under the "Toleration Clauses" of the new treaties the activities of missions increased greatly. - In the Tientsin massacre of French and Russians in 1870, a large sum was demanded and paid for French church property and 4800 Taels was paid to the American Board for property loss. - Protestant missionaries generally claimed full rights under the 1858 Treaty. They ordinarily asked enough indemnity to restore missionary property; they seldom asked indemnity for Chinese Christian's property which the Treaty undertook to protect; they seldom asked and often declined to ask or accept indemnity for life. Sometimes American gunboats went to safeguard Americans or to collect indemnity. - b) In Turkey. For missionary losses during the Armenian (and other?) troubles toward the end of the 19th century, the International Claims' Commission at Constantinople in 1897 awarded indemnity to the American Board and probably to other mission organizations. - c) In Africa. In 1898 in the British colony of Sierra Leone seven United Brethren missionaries were killed and considerable property destroyed by natives. For the property loss alone the Board in America made claim to Great Britain but no settlement was reached.
2. The general position of North American Boards in 1896 is shown in the hearty endorsement by formal resolution by the Foreign Missions Conference of views expressed by Dr. S. L. Baldwin, as follows: "It is one of the functions of government to assure justice to the governed, and to protect them in the exercise of their rights. Missionaries may justly claim protection as citizens pursuing a lawful calling. Boards may properly ask that the Government shall give to them the same recognition that is given to other corporations engaged in legitimate business. A missionary does not cease to be a citizen when he becomes a foreign missionary, any more than a merchant ceases to be a citizen when he goes to establish himself in mercantile business in a foreign land, or a traveller when he goes abroad for purposes of pleasure or of discovery. - We must hold steadfastly to the rights of our missionaries as citizens abroad, engaged in honorable occupations and entitled to full protection



of their lives, persons and property. - The missionary in a foreign land should always remember that he is a guest. Requests are more in place than demands. Much patience should be exercised. The fewer the calls he makes upon the government the better. But, on the other hand, he should never surrender his rights as a citizen of his country; and when necessity arises he can stand firmly on those rights, and ask the government to protect his life and save his property from destruction. In most cases a firm and steady demand by the representative of his government will secure all that is needed. 'I am an American citizen' ought to be fully as effective today as 'I am a Roman citizen' was in the centuries that are gone. These principles are elementary, inherent in the very relation of the government and the citizen to each other.. They are seldom denied by any representative of our own government or by the authorities of foreign nations."

3. In 1898-99 the Foreign Missions Conference addressed a questionnaire to the Boards, containing the inquiry: - "Should Governments be held responsible for injury or damage?" The replies from the Boards expressed a fairly positive and strong position, largely on the basis that the official enforcement of law and order with justice is right and wise, is good for the local government and people, and should be urged specially if the government is remiss; the Boards expected that action would be by the two governments concerned and that the missionaries would be conciliatory.

#### B. THE BOXER TROUBLE, 1900 AND LATER

1. The foreign powers affected by the Boxer Uprising in China in 1900 met in 1901 in Peking in a Conference on Indemnities. The U.S. moved for compensation only without punitive payments; no one else supported the motion and punitive indemnity was decided on at the beginning. The procedure followed that of the Claims Conference in Constantinople in 1897; the delegate of each nation submitted pro forma the amount asked for each specific loss by each individual or company plus his government's claim. These were finally combined into a single claim by each government. The U.S. urged that the total claim be limited to 40 million pounds sterling; considerably more, 450 million taels, was demanded. - The U.S. claims totaled about \$25,000,000 U.S. and were awarded. All private claims were later heard and adjudicated in U.S. Courts; many non-mission claims were reduced or rejected under U.S. laws and within the Agreement of the Powers. This careful process left a large balance of credit to the U.S. beyond what the U.S. needed to compensate actual damage and loss. This balance with its interest accruing from China became the "Remitted Boxer Indemnity" at two later times.
2. The first missionary reaction to the Boxer atrocities was in general horror coupled with a desire for justice and for prevention of a recurrence. The 1901 Foreign Missions Conference had some strong statements along this line, defending Peking missionaries in their stand that the guilty officials and the Boxers should be punished, "not for themselves, for they were safe, but for the security of missionaries elsewhere and in all the future". The consensus of opinion was adverse to indemnity for life, to "exemplary" punitive indemnity and to collection in ways that would injure the Christian cause.

In the autumn of 1901 a special conference of the different missionary



boards was held in the U.S. and it was agreed: "First, that as far as possible a uniform policy should be adopted by the Boards and Societies represented. Second, that no aggressive claims should be made for loss of property, but that in response to specific requests of the State Department, all such losses should be reported." - Practically all Protestant Boards favored compensation for destroyed property. American Boards made a united presentation to the U. S. Government. The Rev. Dr. Frank D. Gamewell, of the Methodist Episcopal Mission, Peking, served as their agent before the Claims' Commission in Washington. Restoration of buildings and payment of the actual value of personal property losses were requested. Although the Commission rejected one half of the total claims of U.S. citizens, it granted the mission group 50% more than was asked. The heirs of a martyred missionary usually received \$5,000 U.S. - In China there were some local requests for and voluntary offers of indemnity, and some local payments to missionaries and to Chinese Christians; in Shansi a college was built by Provincial Indemnity. - The China Inland Mission suffered the most; it decided not to accept indemnity even if offered, as did also the Church Missionary Society of London.

3. By 1908 the U.S. had paid all the approved Boxer indemnity claims of its citizens. A missionary first proposed that the surplus remaining be remitted for the education of Chinese. The Mission Boards decided to make no specific recommendation re the use of this balance. The U.S. remitted most of the balance in 1908, about \$11,000,000 U.S., for the education of Chinese; Tsinghua College was built near Peking and financed, and numerous fellowships in America were provided. Mention is made later of the return in 1924 of the full, remaining balance of the Boxer Fund.

#### C. 1901 - 1910

The records reveal very few cases of mission indemnity during this decade.- A significant issue arose in 1905 in connection with the massacre of several U.S. missionaries by a mob at Lienchow, situated inland in South China. The Northern Presbyterian Board stated that it would renounce claims for the lives lost and would accept only the actual cost of replacing destroyed property with no punitive payment. The Chinese government's reply "greatly appreciated" this action. But later some relatives (not dependents) of the martyred missionaries demanded indemnities from China for the lives lost. China had thought that the Board's waiver had cleared that question and so informed the U.S. Government. Then the State Department in unmistakable language told the Board that a Board could neither claim nor renounce indemnity for lost life as it had suffered no actual and determinable monetary loss. Although the Board would not have accepted indemnity for life, it supported the general principle that actual, financial loss was sustained in the death of qualified missionaries who had spent many years in preparation, language study and acclimatization, with medical care, trans-oceanic travel, etc.; but the State Department ruled otherwise and indicated that only individuals that had been actual or potential beneficiaries of the living person could claim or renounce damages for his death.

#### D. WORLD MISSIONARY CONFERENCE, EDINBURGH, 1910

Of all missionary conferences, Edinburgh gave the fullest and finest study to indemnities under its Commission VII on Missions and Governments, which was very ably led. The report was broadly considerate, well-balanced and concise. It



deserves review today. As the reader may not have it at hand, extensive summary and quotation is given here.

1. China: Most missionaries take a middle position ("The Way of the Mean"?) between full exaction of legal rights and no claim ever. Regarding martyr lives, no indemnity is to be accepted; but the Board should provide for dependents. Regarding destroyed property, a universal sense of fairness and order points to equitable compensation, but it should not be demanded if inexpedient for the Christian cause. No exemplary or punitive damages should be accepted. Compensation for private losses of missionaries is their own concern, except where a Board assume such compensation and the right to apply to government for private as well as Board losses. Missions should not profit by any punitive measures demanded by government.

2. Japan: "The Government of Japan, as a highly civilized Power, recognizes its duty both to its own subjects and to law-abiding citizens of friendly Powers residing within its borders. Missionaries, like merchants or travellers, confidently look to it to prevent lawlessness, threatening danger to life or destruction to property. And compensation would doubtless be looked upon as a just claim. Nevertheless, in the most advanced non-Christian land, Christian Missions have to consider the result of claiming their legal rights upon the temper of the people. When in Tokyo a riot, caused by dissatisfaction with the terms of peace at the close of the war with Russia, led to the damaging of some mission property, most if not all of the Missions affected thought it inadvisable to ask for compensation from the Government. Contributions made by Christians, Shintoists, and Buddhists compensated for a part of the damage."

3. Turkey: "Missionaries in Turkey are tolerably unanimous in maintaining the need for claiming their treaty rights. For wrongs done of an illegal nature (if they are of any importance) redress is usually sought through the Consul or Ambassador, generally with satisfactory results. Such intervention does not irritate the people, who generally have considerable regard for the missionaries; nor does it seem to annoy the officials, except the person against whose action protest is made. One missionary affirms that the officials rather feel it due to their dignity that the Consul should take the matter in hand; but most of them find that a direct appeal to the Turkish Officials is more pleasing to the latter, and more quickly successful to themselves."

4. Abyssinia: " . . . He (the representative of the Swedish Mission) is an advocate of missionaries using their full rights in such a country, as submission to injustice and oppression is merely looked upon as an invitation to further insults and injuries."

5. Principles and Findings of the Commission Concluded, Vol. VII. Pg. 108:

a. "In general we think that the propriety of acceptance of indemnity by a Mission is in large degree a question as to the stage of advancement reached by a people by whom wrong to the Mission has been committed. In savage islands, while acceptance of voluntary restitution of losses and endeavor to promote the disposition to offer this might be justifiable and commendable, it is plain that the invoking of foreign aid in the interests for redress for wrong would be indefensible. On the other hand, in countries in which freedom of belief and religious effort is protected by guarantees representative of a preponderating public sentiment, cooperation with Government in its requirement of just reprisal for



wrong is a duty. The practical issue to be met by Missionary Societies relates to the time when, in any given land or locality, such conditions have been reached that the balance of obligation inclines to the side of cooperation in support of just principles of national and international law. We are inclined to hold the general position that, in cases in which freedom of action by Missionary Societies in respect to the receipt of indemnities is conceded by their own Government, a large permanent good will result if these Societies follow a practice of returning indemnities in cases in which these do not represent a genuinely free action of the authorities, supported in a reasonable degree by a favorable public sentiment.

b. "The practice of forbearance should not be followed irrespective of its bearing on the interests of others. Duty to the community may rightly cause a missionary to hold an attitude with regard to wrongs suffered by him different from that which he would hold if the issue concerned only himself. The law of service obviously involves the promotion of social order, and thus involves loyal support of Government in the maintenance of a just administration. Civilized Governments recognize this obligation in provision for compulsory testimony of witnesses in courts of justice, and in the requirement that all citizens shall, upon call, assist officers of the law in making arrests. Wherever a local Government is sincerely committed by its own ideals and by a supporting public sentiment to requirement of indemnity for wrongdoing, we think that the missionary and the Missionary Society are under obligation to cooperate with the Government in its efforts thus to serve the true interests of its people. One thing, however, seems to us to be plain. Any appearance of self-interest, of personal exaction or resentment, is to be scrupulously avoided. As a rule, initiative may well be left to the Government, acceptance of indemnity being greatly preferable to a demand for it. Pressure for a high valuation of losses is most inconsistent, and acceptance of indemnity obviously in excess of losses would be deplorable. The influence of the missionary and of the Missionary Society should be on the side of leniency in the action of the Government, and absolutely against unjust exaction. Where the innocent are involved in the payment, a generous attitude is the more important, and consideration may well be given in such cases to the possibility of return of the payment in part, or of relief, by donations to local interests. The personal attitude should be unmistakable - that of disinterestedness and kindness; but cooperation in promoting the just ends of a just Government, is a plain obligation, not inconsistent with but involved in fidelity to the law of service.

c. "If Christian missions rest upon a just basis and are, therefore, legitimately entitled to the same protection accorded other interests, will not a course involving a quiet assumption of this ultimately be most helpful to all interests? Advocacy of acceptance of indemnity under international action may, we think, be made from very pure motives and on high grounds in the interests of true and lasting service of mankind."

d. While the interests of public order and welfare have great or controlling force in many lands and instances, in other lands where mission rights rest upon unpopular or unfair treaty or concession other considerations demand attention. - Continuing the Edinburgh Finding: (1) "The missionary's purpose ostensibly is to do good to the people. It is unfortunate when his presence, judged by any standard which they are in a position to apply, brings to them financial loss and hardship. (2) The presence of a missionary in some localities adds to the difficulties experienced by the Government in the preservation of public order. Is it desirable to exact a penalty for local disturbances which, with all watch-



fulness, the Government may have been unable to control? (3) Christian Missions stand for the supreme expression of Christianity, of Christ's message of love and blessing. We feel strongly that it is very unfortunate if this testimony is clouded, and we think it cannot fail to be clouded by exaction of indemnity when the appeal is without support in the moral sentiment of the people.

e. "As regards compensation for life, we concur with the view held by the majority of missionaries that such compensation should not be accepted, so far as the Missionary Boards are themselves concerned. If the widow or children of the missionary need compensation, there seems to us less reason why they should decline to accept compensation than that the Missionary Boards should do so. This seems to us, however, precisely one of the risks that the missionary runs, not only for himself, but for his family. The Missionary Boards have no more sacred duty than to care for the widows and children of missionaries who have been killed at their post of duty. But we can imagine no stronger testimony that missionaries can give to a non-Christian people of the disinterestedness of the whole missionary effort than by their willingness to sacrifice life itself for the cause. This demonstration of disinterestedness is greatly clouded, if it is not wholly lost, by the acceptance of compensation for lives lost."

#### E. IN COUNTRIES OTHER THAN CHINA, 1911-1942

Several cases of significance in indemnity issues occurred outside of China during these three decades. Each recorded instance affected only one or two Boards and did not call for reference to an inter-Board agency. Cases that may have relevance today are cited here:

1. Turkey: The American Board and affiliated schools suffered very severe losses in Turkey during World War I. and subsequently, particularly at the burning of Smyrna. Claims were filed with the State Department covering a large range of types of losses and involving a very substantial amount. These claims were in the possession of the Joint Commission that met in August, 1933, to adjudicate the claims between Turkey and the United States. Turkey agreed to pay a sum of \$1,300,000. at the rate of \$100,000. per year. The allocation of this amount to the various claimants was left to the State Department; further opportunity was given all the claimants to amend or complete the papers that had previously been filed. - The American Board at that time took the following actions:

a. That the Board should present to the State Department such claims as can reasonably be substantiated under such categories as (1) rents for properties seized or occupied during the war or immediately thereafter by the Turkish Government; (2) remuneration for damages done to buildings of the American Board during such occupation; (3) goods, materials, supplies, equipment, etc., confiscated by the Turkish Government and not returned.

b. That in the case of these present claims upon Turkey no indemnities should be asked for - (1) loss of time of missionaries and their associates; (2) pensions or salaries paid during the enforced idleness of missionaries or their associates; (3) travel expense of missionaries and their associates caused by deportation or the closing of missionary work; (4) death or damage to health of missionaries or their associates; (5) any so-called moral damages of any sort.



2. Persia: The Northern Presbyterian Board suffered losses in personnel and in property in warfare in north-western Persia in the autumn of 1914 and for several years thereafter. Turkish Kurds and irregulars invaded Persia and attacked Christians, chiefly Assyrians by race, who sought refuge in mission premises. Russian troops came in to defend them and to fight back against Turkey. In the multiple interlockings of national, racial and religious antipathy and violence, it became virtually impossible to fix responsibility for destruction. The State Department in 1933 requested the Board to present to it a Statement of Losses, corporate and personal, which the Board did, amounting to \$195,000 U.S. But the Board knew that the conflicting factors in the case made it very confused and it did not press any claim against Turkey or against Persia. The Board noted formally the distinction between demanding indemnity and accepting it if offered. None was received for these losses. By appeal to the Home Church the Board had previously raised a special Persia Rehabilitation Fund to aid missionaries and to restore urgently needed property; personal grants to individuals were to be reimbursed to the Board from any indemnity payment they might receive.

The expropriation by Persia (Iran) in 1939-40 of foreign, educational institutions may foreshadow similar government occupation in various lands of some forms of customary mission activity. After prolonged and persistent negotiation, including as a necessary and final step a special, ad hoc deputation from the U.S. which spent about six months in Teheran, the Iranian Government agreed to indemnify the Board (N. Pres.) by paying \$1,200,000. over a number of years; this was approximately one-half of the replacement value of the properties, located in several widely-scattered cities. Remittances to date total \$600,000.; (the next payment is due in 1943).

3. German Kamerun: In 1915 German military forces occupied and damaged buildings and confiscated equipment and cash of the American Mission in this German colony in West Africa in warfare against the attacking troops of the Allies. The Northern Presbyterian Board filed claim. The German Government acknowledged the damage. \$10,240 was awarded by the Mixed Claims' Commission. The U.S. War Claims Act of 1928 authorized payment from the German Special Deposit Account in the U.S. of all Commission awards with interest at 5% from date of loss. The Board received something over \$17,000. in July 1928.

4. Russia: In 1918 three properties of the Methodist Episcopal Board in Leningrad and in two villages were confiscated by the Russian Government. Some years later when international relations were under adjustment a formal claim was made by the Board through the State Department. No payment has been received.

5. Mexico: "Nationalization" by methods often tantamount to confiscation of the properties of foreign religious bodies was part of the cyclonic People's Revolution in Mexico. Condemnation and forcible expropriation for purposes of State from about 1930-35 of churches and chapels, schools of all grades, hostels, hospitals and other foreign-owned plants crippled much if not most mission work of those Boards that had not previously transferred their institutions to a National Church. Enforcement of Federal decrees varied in vigor and scope in different States. The American Embassy and, on the whole, the Boards did not favor pressing for indemnity. The Boards worked and hoped for the recovery of the properties; some were returned in 1942 and others are in the process. Very little if any compensation has ever been paid. - In return for a church building destroyed by street widening in Mexico City, the dispossessed Evangelical congregation was assigned by government a better Roman Catholic edifice in the neighborhood.



F. CHINA 1910-1928

1. China 1910-1926:

a. Lawless attacks by small bands or by occasional mobs caused destruction of mission property and occasionally of life in various parts of China. Mission policies on indemnity became gradually less positive for the use of military force in indemnity demand and collection but were still widely variant. In 1910 three British societies declined indemnity for large property losses in Changsha. - But many felt that the requirement of reparation inclined the government to better enforcement of law and order. An article in The Chinese Recorder (J. Archibald, Nov. 1910) sketched "The Case for Indemnities" clearly, answering many objections and declaring that (a) Boards are not free agents in indemnity matters, but are Trustees of gifts for certain purposes; (b) missionaries are not free agents but are Trustees, even of their own lives for those dependent on or benefitted by them; (c) refusal of indemnity places one's own government in a difficulty; the refuser must show a better way of settling lawless violence; (d) refusal embarrasses the offending government which misunderstands gratuitous condonation and thinks the case is not cleared but is secretly booked against it; (e) indemnity has aided by rebuilding ruined institutions; rioters are discouraged by seeing destroyed establishments re-erected at the expense of those responsible for damage - experience shows that their work progresses rapidly, and perhaps more rapidly than if there had been no riot at all; (f) refusal makes widows and orphans dependent upon support by others; (g) submitting to spoilation and murder without seeking redress sets a standard for native Christians which no community ever made a success of; and (h) indemnity is good for any country where riots occur. The best friends do not condone wrong doing.

b. Remission of Boxer indemnity emerged again in 1920 when British Mission Boards suggested the return of some or all of the British balance, to be disbursed by a joint British-Chinese body. The reasons given were: (a) the great changes in China since 1900 call for reconsideration of the use of the money; (b) it will help build a stable government by training leaders on British lines; and (c) China has a new national life with world relations and other countries should help her. China asked for the funds for a new program of education. The remission of Boxer indemnities by various powers was considered at the Washington Conference of 1922. Joint British-American action was proposed. Britain conferred with Japan re remission by Japan. In 1925 Britain remitted her balance for cultural purposes under a British and Chinese agency. In 1924 the U.S. remitted its full remaining balance (about \$6,000,000 U.S.) to disburse which the "China Foundation" was organized. Officers of the IMC with various missionaries helped greatly in effecting these two gratifying actions. The Press of Japan berated the U.S. and England for making "Chinese tools" for political and economic aggression. - Mission agencies and institutions indicated that they would accept aid from these remitted Boxer indemnities only if the Chinese attitude was clearly favorable and the Christian witness was unimpaired.

c. For a number of years, brigandage and banditry were widespread in China, often by disbanded or undisciplined soldiers. Anti-foreign feeling was growing. An American business man was killed at Kalgan in 1921; the U.S. government demanded indemnity. About that time \$45,000 mex. was paid to the Reformed Board in the U.S. for the death of a missionary in Hunan. - Later the dependents of a Presbyterian missionary slain in Hainan were indemnified \$20,000 mex. collected locally by the Military Governor, who executed several suspected accomplices in the murder. - Although there was much looting and damage of property,



missions and Boards were disinclined on the whole to press for indemnity especially in places where the struggling government(s) of China was unable to exercise adequate control. A growing number of missionaries denounced the use of foreign government force for missionary protection. A signed appeal to this end by a long list of North China missionaries was answered by a vigorous rejoinder from the American Minister that the U.S. Government itself determined its duties and the rights of its citizens and that it would seek to protect the persons and properties of its citizens if, when and as it deemed they needed protection.

d. The China Mission Year Book for 1924 stated that (a) the attitude of the consuls and business groups favors indemnities to force the government to protect foreigners; (b) the opinion of the missionary community is divided; and (c) the Chinese are coming to understand that the relinquishment of claims is not a sign of weakness but a friendly act. In 1923 at a meeting of missionaries at Kuling, a resolution advocating no use of force or of extra-territorial rights failed to pass.- Dr. D. E. Hoste of the C.I.M. wrote in the "Chinese Recorder", April 1924; "Speaking with considerable experience, the writer ventures to affirm with confidence that the policy of suffering wrongfully rather than requesting official intervention will do more to conserve and promote the good name of the country to which the missionary belongs than the other course of appealing to consular intervention." - in 1926 at a Conference of Presbyterian Missionaries in northern China, a motion to forego indemnity for life or property was not favored and the following substitute, offered by Dr. J. Walter Lowrie, was adopted: "While this Conference recognizes the evils arising from an abuse of existing rights of a foreign resident to be indemnified for loss by violence in a foreign land, it is of the opinion that such rights may better be waived by individuals and by the Board of Foreign Missions at discretion than that such rights of citizenship as are recognized by foreign nations the world over be disallowed altogether."

e. A change of citizenship through naturalization by a missionary, in order to avoid the international involvement of indemnity, was occasionally discussed during this period; Dr. T. T. Lew proposed this at the Foreign Missions Conference in January 1927. To be entirely free of protection by any nation, a person must be "without a country" which appears to be impossible. Naturalization in a mission land involves many difficulties for self and family; this course has been followed only in rare instances. In this connection it should be noted that some peoples including the Chinese collect indemnity from citizens for wrongs done to citizens.

## 2. China 1927-28: The Nanking Tragedy

a. The shocking atrocity in March 1927 at Nanking climaxed the anti-foreign outrages that were increasing and spreading northward. Missionaries and business people from many nations were attacked, some were killed, and much property destroyed, damaged or seized. The attack was part of the drive of rebel soldiers and irregulars, stimulated also by foreign communists, against the central government and against "foreign imperialism".

b. Eight or ten American Boards were involved in the Nanking destruction, and practically all Boards were suffering losses in some part of China at this time. In May 1927, the FMC through Dr. A. L. Warnshuis issued to the Boards an admirable document: "Source Material on the Study of the Question of Indemnities", followed in June by his "Supplementary Material on Indemnities", outlining the then attitudes of various Boards. On "Source Material" Dr. George G. Wilson, Professor



of International Law at Harvard University, commented: - "There should, to my mind, be a clear distinction in principle between indemnities for injuries to property and indemnities for injuries to persons in the case of missionary property and persons. The same policy might not have equal value under differing conditions and in different communities. How far the principles of justice may be made effective in the national life of the people compelled to pay indemnities is worthy of consideration, because in the long run the observance of the principles of justice and the fulfillment of international obligations is essential to the well-being of the state, whose citizens may have disregarded the rights of aliens. It seems to me that it would be premature to decide at this time in regard to a policy which should have general application."

c. The wide extent of outrage and loss aroused the American government and people and called for careful consideration and declarations of the Boards. - A martyr at Nanking, The Rev. John E. Williams, D.D., was a missionary of the Northern Presbyterian Board which announced that it "has never requested nor accepted indemnity for the death of any missionary. - The Board can speak only for itself. It is not authorized to speak for any individual personally concerned in the death of Dr. Williams." Boards felt that China was struggling toward better government and did not wish to embarrass her leaders. The Boards at work in Nanking and the University of Nanking made no claim for losses there. A number of Boards for information only submitted lists of losses to the State Department. - Some Boards declined to make indemnity claim for losses elsewhere in China at this period, including the Southern Baptist, Congregational, Disciples, Mennonite, Moravian, Reformed in U.S., and the Y.M.C.A. Some Boards accepted indemnity voluntarily offered; other Boards would not accept indemnity under any circumstances, e.g. American Friends and China Inland Mission. Representatives of the Boards were in frequent, joint conference in New York City. Some of them urged united action. Although this did not eventuate, the various Board policies approximated an increased measure of conformity in ideology and in procedure.

d. In June 1927 at a conference of representatives of Boards and of furloughed missionaries from China, an experienced Board Secretary personally proposed that (a) Boards should ask no indemnity for life and should see that support is provided for dependent widow and children, (b) Boards cannot control independent action by Government or by relatives of missionaries, (c) no punitive indemnity for property be sought, (d) no indemnity be accepted for destroyed missionary residences which should be replaced by home supporters, and (e) for schools, hospitals and other properties for community service no indemnity be claimed through the U.S. Government, but in consultation with local missionaries and national Christians a Board might ask the people of the community to replace at least part of such property for their own benefit.

e. Typical of the average position was the following action, January 6, 1928, by the Reformed Board in the U.S.: "While the Board of Foreign Missions considers the destruction of some of the valuable property and equipment of our China Mission as unjustifiable acts, and can in no wise condone the same, and while we recognize the right of our Government to demand indemnities for the losses sustained, yet, being in China on a mission of love and good-will and for the spiritual benefit of the people, and realizing that the penalty would fall upon the local citizens, most of whom are innocent, we therefore waive this right and do not file any claim, and request the United States Government not to demand reparation for damages to property owned by the Board without consulting it. In view of the fact that some of our Missionaries have sustained heavy losses by the looting of their residences, the Board will arrange to restore the same so far as possible by



re-outfitting the missionaries on their return to the field."

f. The U.S. Government held the Nationalist Government of China responsible for the "Nanking Incident". After conversations the Chinese Foreign Minister by formal note to the American Minister in March, 1928 expressed profound regret, accepted responsibility, promised full compensation under international law for loss of life and property, proposed a Joint Commission and gave \$100,000. as initial payment. The American Government then gave assurance of no coercion upon the Chinese Government, of no claim for punitive indemnity and of claims only as requested by those suffering loss. Later in that year the action of the Mission Boards were officially commended with an expression of "deep appreciation by the Nationalist Government".

g. The general leniency of the Boards regarding indemnity for Nanking and contemporaneous losses elsewhere was largely due to sympathy with the Nationalist Government's strenuous effort toward law, order and progress. But beyond this it also indicated an increasing reluctance to be associated with western governments in demanding indemnity under pressure, especially from a friendly nation. British Boards made no indemnity claims in re Nanking and made reparation to missionaries for personal losses.

#### G. RESOLUTIONS BY FMC AND BY IMC IN 1928

Largely motivated by the international involvements of Missions in China, the question of the Protection of Missionaries was discussed at two important conferences and action taken as follows:

1. The Foreign Missions Conference of North America on January 13, 1928, at Atlantic City, voted: -

"Resolved, That in the judgment of this Conference the use of threat of foreign military force for the protection of missionaries is in general a serious hindrance to missionary work and that the effort should be made to secure for those missionaries desiring it the privilege of waiving their right to such protection."

2. The International Missionary Council in April 1928 at Jerusalem voted: -

"Inasmuch as Christian missions involve the largest possible identification of the missionary with the people of the country of his adoption; and

"Inasmuch as missionaries have generally relied upon the goodwill of the people among whom they live and the protection of the government of the locality for the protection of their lives and property; and

"Inasmuch as missionaries, both as individuals and in groups, and several missionary societies have asked that steps be taken to make plain that they do not depend upon or desire the protection of foreign military forces in the country of their residence; and

"Inasmuch as the use or the threat of the armed forces of the country from which they come for the protection of the missionary and missionary property not only creates widespread misunderstanding as to the underlying motive of missionary work, but also gravely hinders the acceptance of the Christian message:

"The International Missionary Council places on record its conviction that the protection of missionaries should only be by such methods as will promote goodwill in personal and official relations, and urges upon all missionary societies that they should make no claim on their governments for the armed defense of their



missionaries and their property.

"Further, the Council instructs its officers to collect and circulate to the national missionary organizations information concerning any action regarding this matter that has been or may be taken by the missionary societies.

"Finally, the International Missionary Council desires to record its conviction that since the foreign missionary enterprise is a spiritual and moral and not a political enterprise, its work should be carried on within two great human rights alone, the right of religious freedom for all men, and the maintenance by each nation of law and order for all within its bounds."

H. CHINA 1929 - Dec. 8, 1941

1. Japanese occupation of Manchuria, following the Mukden Incident of September 18, 1931, had little effect on American Missions as the work there was chiefly by British societies. One increasing concern was over offensive, non-Christian rituals (of worship with animal sacrifice ?) required of all students; aside from the religious issue, this entailed the forced misuse (?) of foreign property held for Christian use only. - The Japanese occupation by aggressive fighting in parts of Shanghai and of the lower Yangtse region in 1933 raised numerous indemnity problems. All questions were taken up with the U.S. Consul General in Shanghai, who investigated and according to circumstances made claims to the Chinese, or the Japanese, Government. Somewhat related was the refusal of a Board to sell for full value a large property in the occupied zone of Shanghai for a Japanese military hospital. - On July 7, 1937 came the first great, overt act of the Sino-Japanese "undeclared" war. In September the FMC office asked the State Department for advice regarding procedure in filing claims for mission damages; the Department reply of September 17, 1937, which outlined the approved process with accompanying memoranda, was relayed to the Boards.

2. January 17, 1938, the American Government protested against infringement of American interests by Japanese military in China. Japan replied that (a) she had again dispatched rigorous instruction on the 15th and the 20th of January to her representatives in China, and (b) the civil and military authorities of Japan in China were doing their utmost for a satisfactory settlement of the affairs in question by establishing the facts, dealing with those responsible and making restitution of damages as far as possible on the spot. - The immediate settlement with Japanese military authorities in China for Mission property damages was advocated and fully explained in an FMC Committee on East Asia communication of March 10, 1938 to Boards working in the Far East. Under certain conditions the State Department was not disposed to object to this unusual procedure.

As principles to be observed, the Committee on East Asia recommended the following to the Boards: "(1) Negotiations looking toward compensation for damages should be initiated only after conferring with the local Consul, who doubtless has received instructions from his government as to procedure. He should be kept informed of the progress of negotiations and of any proposed settlement. (2) The mission should at the same time keep its Board informed of developments so that the Board may take whatever action it deems necessary in reporting to the State Department. (3) Before initiating negotiations looking toward compensation for losses it would be advisable for a mission to confer with other missions in the same area. (4) In signing any statements in connection with such negotiations or settlements care should be taken to limit all statements to personal knowledge of the facts concerning the case that is being settled." - There were to be no claims by Americans for losses by others than American citizens. - An extended "State - ment for the General Information of American Nationals desiring to present international pecuniary claims for losses or damages sustained in connection with the Chinese-Japanese Conflict," was issued by the State Department August 27, 1938.



3. The Boards were in close conference and many of them took united or parallel action. The terms "a Board" and "a Mission" below refer usually to the Northern Presbyterian with which the writer was officially related; their work was widely extended in China and their actions were typical of the majority of Missions and Boards. The courses pursued by many Boards were as follows:

a) By formal action in 1937 a Board stated: "While expecting continued diplomatic protection for its missionaries and property, the Board does not desire that any injury or damage be made an occasion for the use of military force, much less a threat or cause of war." A similar and fuller position was stated later by the FMC Committee on East Asia.

b) The Associated Boards for Christian Colleges in China voted in August 1937 that inquiries by any College Board of Founders regarding its property in China or any claim for indemnity be made through or in consultation with the Associated Boards.

c) February 1938, Missions reported the Nanking losses in detail to the American Embassy. American flags and Embassy Proclamations had been placed on all Nanking buildings and were disregarded by Japanese soldiers. Then missionaries and Japanese Consular Police put up Japanese Proclamations, which also were futile, and found Japanese soldiers in the properties. There were at least three instances of lowering and of mutilating or removing American flags;

d) March 2, 1938 a Mission reported that many properties in various places were occupied by Japanese military who showed no signs of evacuating, that the Japanese desired to settle damage claims on the spot and that the American Missions represented in Shanghai would probably make a Joint Protest to the U.S. Consul to be forwarded to the State Department;

e) On March 10, 1938 ten American Missions in China (Baptist N. and S., Congregational, Episcopal, Methodist N. and S., Presbyterian N. and S., Salvation Army and Seventh-Day Adventist) addressed the Department of State protesting against Japanese Army occupation of their properties, asking future protection of American properties and urging the early return of expelled missionaries to their residences and institutions;

f) On April 5, 1938 the State Department replied that the U.S. had persistently sought respect for the properties, had notified Japan that the U.S. reserved all rights for indemnities, and had asked Tokyo for prompt remedial action so that Americans could return to their properties. In June 1938 the State Department expressed its readiness to help missions with their indemnity claims;

g) "Solatiums" started early in the war; these monetary gifts on the spot by military authorities are virtually immediate, partial payment on the spot to settle in full for damages. For example: on January 11, 1938 six Japanese bombs and shells did \$10,000 mex. damage on the Southern Baptist compound at Tsining, Shantung Province and the military gave the mission \$6,500 mex. in settlement; at nearby Taian the Anglican Mission was paid \$2,000 mex.; in south China the Seventh-Day Adventists received \$2,365 H.C. for bomb damage to their Waichow hospital. - In July 1938 a Board authorized its Missions to plan for "solatiums" for Board owned property for a temporary period in consultation with other Missions and the U.S. Consul, it being understood that: (1) there was no compulsion by the military, (2) settlement was by an authorized Mission representative, (3) compensation was for the entire loss for damage already done, (4) the way was left open for future claims for any later loss. - Many Missions, including the Adventists, N. and S.



Baptist, Lutheran, N. Presbyterian, United Brethren, and doubtless others, received pecuniary "consolation" from the Japanese military;

h) A Mission in 1938 approved in principle the submission to the Japanese of a bill for Rental charges for occupancy of Soochow properties; a claim for damages was to be separate and later. It instructed all Stations, in October 1938, to report damages to the consulates irrespective of subsequent Board policy on indemnity. - In July 1939 the Japanese Vice-Consul of Shanghai called this Mission to conference on its Shanghai losses, making careful inquiry re occupation, looting, burning, etc.; Col. Ichikawa held out hope of "good news" soon but not of full compensation. - In January 1940, the Mission was authorized to claim through the U.S. Consul \$47,000 U.S. for its Shanghai and Soochow losses. - A Board advised its Mission that if Board property was in use by Chinese Boards of Directors under lease (e.g. schools) or by Chinese churches, the users were expected to do what they could toward the repair of war damage;

i) Representatives of the Committee on East Asia conferred with the Ambassador of Japan in Washington on November 6, 1939. The Japanese Embassy issued on November 10, 1939 a statement to the Press indicating that several mission properties had been "reopened" to the missionaries, that several others were reported settled, that certain Missions (mentioned by name) had received "consolation", and that Shanghai University had been partly returned to missionary use;

j) Probably the largest damage in one place was suffered by the University of Shanghai of the northern and the southern Baptist Boards. It was taken over by the Japanese military in 1937 and occupied for almost two years. Physical damage plus financial loss from inability to use the plant (i.e. rental value) was \$357,000 U.S. Because of "uncertainty and delay if an International Claims Body" handled the case, the University submitted its claim locally and undertook direct negotiation with the Japanese in Shanghai. Finally an offer of \$1,000,000 L.C. (then about \$66,000. U.S.) was accepted for damage "to that date". The plant of the University was reoccupied by the Mission authority about six months before the indemnity was paid. In December 1941 it was again taken over by the Japanese which makes possible another claim for indemnity.

(Note: A shift in the ratio of exchange between the currencies of the two nations involved has complicated numerous settlements of claims.)

k) In April 1940, the East Asia Committee, after conference with the State Department on indemnity claims in war areas, informed the Boards on the total situation and on the Shanghai University matter and expressed its opinion that "individual settlements, as opportunity might offer, were now called for". The Committee urged that "in any such settlement there be ample consultation with other groups concerned on the field and full reference to the Committee on East Asia";

l) The Registration of missionary organizations in China was raised as an inquiry by the field in July 1940. The Committee on East Asia laid the matter before the State Department which replied in part as follows: "Although the registration of missionary organizations with American consulates in China is entirely optional with the organization, such registration provides consular officers with certain prima facie evidence and a record in regard to the nationality of the persons interested in the registered enterprise and other pertinent data which may be of value both to the Government and to the organization registered. Registration does not necessarily imply that the enterprise is entitled to the diplomatic protection of this Government. The measure of protection to be accorded



is determined by the facts in each particular case. Because of the disturbed conditions in most parts of China at the present time, which conditions have given rise to a number of claims for pecuniary damages by various mission organizations, it will be apparent that formal establishment of the status of an organization may be of considerable value. - Applications for registration as an American missionary organization should be made to the American Consul in whose district the organization has its principal office. The Consul accepting the application will communicate in regard thereto with other consulates in the consular districts in which the organization may have branches";

m) In October 1940, a member of the Far East Committee learned at the State Department that very few claims for damages in China had been completed in Washington and that some local settlements had been made in China. The Department stated: "When the Consul in China is notified by American citizens of loss which American property has suffered, he sends the person making the notification the proper blanks prepared by the State Department for the guidance of those making such claims. If claims are filed with supporting evidence which is deemed deficient, the Department invariably returns the papers and asks that the evidence be made more complete. If all the evidence obtainable has been put into the document, that fact should be noted in order to avoid the delay occasioned by the return of the document."

#### I. SINCE DEC. 8, 1941 - WITH THE U.S. AT WAR

1. The entry of this nation into war seriously affected still further the American missionary occupation by partial-to-total evacuation from many fields, by shortage or total lack of transportation facilities, by military occupation of many areas with the consequent use, damage and/or destruction of much mission property by enemy forces and with the requisition or necessary destruction of some mission property by American or allied forces. Enormous damage to mission property and work has been caused by the war in south-eastern Asia and elsewhere. - In February 1943 the writer had no knowledge of any indemnity claim by any Board in the U.S. since America entered the war. In March 1942 the State Department issued a circular for American citizens suffering losses abroad, suggesting a tentative and preliminary report of loss and outlining the kinds of information desired by the Department; related advice was doubtless sent to diplomatic and consular representatives in war zones. Missions of various Boards have probably followed a course similar to that of the Northern Baptist Mission in Burma which has suffered very heavy loss; in response to the U.S. Consul's request and with Board approval, a representative of that Mission reported its recent losses for information to the Consul and he in turn to the State Department.

2. The new U.S. Treaty with China, signed January 11, 1943 and ratified by the U.S. Senate February 11, 1943, terminated the extra-territorial rights and other special privileges of Americans in China and brought the titles of American-owned property under the Chinese laws of taxation, defense and eminent domain. Under the new treaty any claims for indemnity for injury or loss of missionary life or property in China will doubtless be under Public International Law. To date there has been no change in procedure for reporting loss and filing claim.

3. An interesting side-light is the specific inclusion by Russia of "places of religious worship" within her projected indemnity claim against Germany. A Decree by the Presidium of the Supreme Soviet on November 2, 1942 formed an extraordinary State Commission charged in part to register: "The damages caused by the Hitler invaders through the ransacking and destruction of artistic, cultural and historical values of -, -, also buildings, equipment and utensils of religious worship." Metropolitan Nikolai is on the Commission of nine members. The Decree



holds the German Government and army command and their associates to "full criminal and material responsibility". (Full text in N. Y. Times, Nov. 5, 1942).

#### J. APPRAISAL OF APPARENT GENERAL OPINION OF THE BOARDS IN 1942

(The writer attempts this brief assay, well aware of many unnoted variants and emphases and of some modification of opinion caused by the overwhelming damage from hostile military forces.)

At the close of the period covered by this Historical Study, most if not all Boards were probably willing to report injury or loss of personnel or property to Consular authorities and to the State Department for Information. But on the question of making a claim for indemnity, circumstances altered cases:

1. The most frequent combination was purely local lawlessness causing loss to a friendly neutral in the territory of a friendly government: (a) If that government was doing the best it could for law and order, the Boards in general inclined not to seek indemnity, much less to urge it through international channels. If reparation was voluntarily offered and provided in ways not harmful to innocent persons or to the Christian cause, the inclination was to accept it. - (b) But if officials of that government appeared to ignore their duty or to connive with the crime, then opinion seemed to support a request for compensation of actual damage. To secure such indemnity, friendly diplomatic procedure was approved, without use or threat of military force, and with the (expressed) expectation that the innocent did not suffer unduly and that mercy merely modified the application of justice.

2. Less frequent but more destructive was damage by warfare to an American Mission which could be in any one of differing relationships to the belligerent(s), e.g. as today in Japan, in Occupied China, in Free China, in the Philippines, in Burma, in a British Mandate or in Turkey. Recent Board opinion toward indemnity for such loss varied according to the circumstances involved. Apparently it approved indemnity if the offender were an aggressor in friendly or allied area (e.g. China 1937) or if the offender were an enemy in any area as for instance in 1942 in hostile Japan, in neutral Turkey, in allied China or in the Philippines.

3. Punitive or "exemplary" indemnity, i.e., any excess beyond actual compensation was not acceptable to the Boards; they would doubtless have requested their government that none be asked for them under any set of conditions.

4. Claims or acceptance of indemnity by missionaries for their personal losses were considered by the Boards as in much the same category as the Board losses. Boards were willing to aid the individual loser if they felt it unwise for him to file a claim.

5. Indemnity for the personal injury or death of a missionary, which can be claimed only by those that suffer monetary loss thereby, was an open question with many Boards; but there was a growing inclination of Boards to discourage relatives from demanding it and to make arrangements for continued provision for widow and children.

6. The evidence of the last fifty years indicates that the Boards became increasingly careful about claiming indemnity, especially through government pressure upon a friendly nation; reciprocally they became increasingly ready to ask their supporting constituency to meet the emergency. A growing similarity in Board policy and procedure was manifest and was doubtless one result of a developing



spirit of comity and unity with fuller consultation and cooperation in many matters, including international indemnities.

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